

EXPLANATORY DOCUMENT FOR APPLICANTS AND HEALTH PROFESSIONALS

LEGAL FRAMEWORK

Section 58 of the Act respecting the conservation and development of wildlife states that:

The ministère des Forêts, de la Faune et des Parcs may, on the conditions it determines, authorize a handicapped person within the meaning of section 1 of the *Act to secure the handicapped in the exercise of their rights* (R.S.Q., c. E-20.1) who is prevented by his or her handicap from hunting in accordance with this Act to disregard subparagraph 1 or 2 of section 57 or any provision of the regulations made pursuant to subparagraph 4 of the third paragraph of section 56.

The application for such an authorization must be made in writing and accompanied with a certificate from a member of the Ordre professionnel des médecins du Québec, the Ordre professionnel des ergothérapeutes du Québec or the Ordre professionnel des physiothérapeutes du Québec, attesting the physical disability, specifying its nature and stipulating how it prevents the person from hunting in accordance with this Act.

Where the Ministère authorizes a handicapped person pursuant to this section, it shall take into account the application guide prepared following consultations with the Office des personnes handicapées du Québec.

Section 1 of the Act to secure the handicapped in the exercise of their rights stipulates that:

“Handicapped person”, or “the handicapped” in the plural, means a person limited in the performance of normal activities who is suffering, significantly and permanently, from a physical or mental deficiency, or who regularly uses a prosthesis or an orthopaedic device or any other means of palliating his handicap.

DEFINITION OF HANDICAPPED PERSON

The definition of a handicapped person as a person suffering from a physical deficiency referred to in section 58 of the Act respecting the conservation and development of wildlife sets two main requirements.

To be eligible, a handicapped person must be:

- Limited in the performance of normal activities;
AND
- Suffering significantly and persistently from a physical deficiency or regularly using a prosthesis or an orthopaedic device or any other means of palliating his or her handicap.

Normal activities include everyday and domestic activities together with the social roles required in the prevailing social and cultural context for a person according to his or her age, gender and social and personal identity.

The term persistence includes a notion of duration and continuity, and is the opposite of all that is temporary, although it excludes the notion of permanence. A deficiency can therefore be described as persistent where there is no visible end to its manifestation.

The term significant takes its meaning when combined with the term handicap. It refers to a certain level of alteration, by excess or by default, of the ability to perform a physical activity due to a physical deficiency. The physical deficiency need not be significant in itself. Its significance is judged from its effects. Hence, a significant physical deficiency is one that generates a handicap or handicaps of a certain level of gravity or severity.

A persistent and significant physical deficiency is permanent when its cause is irreversible. It may be temporary, however, when its cause is deemed to be reversible.

AUTHORIZATIONS GRANTED BY THE MINISTÈRE DES FORÊTS, DE LA FAUNE ET DES PARCS

The Ministère may grant an authorization only when a physical deficiency is persistent and significant. Such an authorization may be permanent or temporary, depending on whether or not the deficiency is reversible.

Where a health professional diagnoses a physical deficiency that may be reversible, he or she must also state when, in his or her opinion, the physical deficiency should be reassessed.

The Ministère grants two types of authorization:

An authorization to be on or on board a stationary vehicle or trailer and in possession of an armed crossbow or a loaded firearm, and to fire a firearm, bow or crossbow from that vehicle or trailer.

This type of authorization may be granted only to a person:

1. Who is paraplegic, hemiplegic or quadriplegic;
2. Who has lost one leg above the knee;
3. Who has lost both legs below the belt;
4. Who has a persistent and significant physical deficiency that allows him or her to move around only by means of an adapted vehicle, a wheelchair or any other similar aid.

In the first three cases, the authorization will be permanent, since the cause is irreversible.

The fourth case applies when the applicant cannot, without assistance, get out of his vehicle and move about, or when he must use a mobility assistance device to move about. In such case, the authorization may be permanent or temporary; depending on the health professional's diagnosis.

However, authorization cannot be given where a person is unable to walk in the forest (except in the above-mentioned cases) or suffers from emphysema, asthma, pain in the legs or cardiac problems, or for any other reason that would cause that person to prefer to hunt on or from, rather than alongside, a vehicle or trailer.

An authorization to hunt using a crossbow during the period in which only bow hunting is allowed, except in zones 17, 22, 23 and 24.

This type of authorization may be granted only to a person:

- Who is paralyzed or has lost part of an upper limb, including two or more fingers, a hand or a forearm;
- Who has a persistent and significant physical deficiency that prevents him or her from using a bow in a recurrent and effective way, for hunting and during practice.

In the first case, the authorization will be permanent, since the cause is irreversible.

In the second case, the authorization may be permanent or temporary, depending on the health professional's diagnosis.

In the second case, the health professional should not limit the diagnosis to an evaluation of the person's ability to use a bow on an occasional basis.

When hunting by means of a bow, the hunter has a responsibility to fire accurately at the animal being hunted. Accordingly, in the training course required to obtain a bow hunting certificate, hunters should practice regularly in order to obtain a level of accuracy sufficient to ensure that the animals will be shot in their vital regions.

Individuals suffering from degenerative diseases such as arthritis, osteoarthritis and chronic backache or who do not have sufficient strength and control to use a bow, may obtain a hunting authorization for handicapped persons allowing them to use a crossbow. In such cases, the health professional must assess the capacity of the individual to use a bow in a recurrent and effective way, for hunting and during practice.

APPLICATION PROCESS

To obtain an authorization, applicants must complete all sections of the application form, either online, by hand in block letters or using a typewriter.

They must also ask a member of the Ordre professionnel des médecins du Québec, the Ordre professionnel des ergothérapeutes du Québec or the Ordre professionnel des physiothérapeutes du Québec to complete all sections of the certificate attesting their physical deficiency, either online, by hand in block letters or using a typewriter. The health professional's charges for the consultation are at the applicant's own expense.

The applicant should then submit the duly completed application and certificate of physical deficiency to the Direction de la Protection de la faune in the region in which he or she resides.

If a form is incomplete or illegible, it will be returned to the applicant so that he or she can provide the missing information.

Where the form submitted by the health professional is incomplete or illegible, does not stipulate the nature of the physical deficiency or does not state how it prevents the applicant from hunting in accordance with the Act, it will be returned to the applicant so that he or she can obtain the missing information or details at his or her own cost.

The Ministère may contest the certificate of physical deficiency and ask the applicant to obtain a second opinion from a member of the Ordre professionnel des ergothérapeutes du Québec or the Ordre professionnel des physiothérapeutes du Québec designated by the Ministère. The applicant must pay for the second opinion, but the Ministère will reimburse the amount if the diagnosis made by the health professional it designates supports that of the health professional selected by the applicant.

The Ministère has a period of 10 working days in which to grant authorization, and guarantees a response within a period of 20 days. The periods in question are calculated from the date on which the Ministère receives the duly completed form, or from the date on which it receives the form previously returned to the applicant for missing information or details, or from the date on which it receives the requested second opinion. Where authorization is refused, the applicant must be notified in writing of the reasons for the refusal.